



MEMO TO City Council

FROM: Rosemarie Ives, Mayor

DATE: September 5, 2006

SUBJECT: **APPROVAL OF CONSULTANT AGREEMENT FOR BEAR CREEK REHABILITATION, PROJECT NO. 96-SD-22/100407**

I. RECOMMENDED ACTION

A. Move to approve:

1. David Evans & Associates, Inc. is the most qualified firm to provide the design and construction engineering services for Bear Creek Rehabilitation, Project No. 96-SD-22/100407, and
2. The fair and reasonable price for providing services through completion of plans, specifications and estimate is \$409,172 plus \$102,293 allowance for contingencies for a total of \$511,465.

B. Authorize the Mayor to sign the Agreement.

II. DEPARTMENT CONTACT PERSONS

Dave Rhodes, Director of Public Works	556-2705
Bill Campbell, City Engineer/Asst Public Works Director	556-2733
Bob Franklin, Division Manager	556-2818

III. DESCRIPTION

Project Overview

The Bear Creek Rehabilitation project will rehabilitate the lower, channelized part of Bear Creek starting at the Sammamish River and going upstream on Bear Creek to the Bear Creek enhancement work previously completed. About 3,000 feet of Bear Creek will be completely

relocated from the mostly straight, channelized "stream" to a meandering, reshaped and re-planted channel in the existing open space.

The project will establish stream buffers consistent with the City's Critical Areas Ordinance with allowance for the Washington State Department of Transportation (WSDOT) "Stage 3" widening of the SR520 freeway adjacent to Bear Creek. The existing asphalt path will be relocated and augmented with a soft-surface parallel path and "side-routes" that will allow people to walk over to the stream and to view and interact with (a much improved) Bear Creek.

The rehabilitated stream will greatly improve fish habitat. The current channelized configuration provides very poor fish habitat and several habitat specialists believe that any small fish (including those in the rearing stage) are flushed out of Bear Creek because there is little refuge. The small fish are displaced into the Sammamish River where warmer temperatures are likely lethal.

The rehabilitated overbank areas will address flood conveyance issues and will provide other habitat improvements.

History

Rehabilitation of lower Bear Creek was identified in the Bear Creek Basin Plan, jointly completed by the City and King County in 1990. Funding was not available at that time and this work has been pursued as funding opportunities occurred.

Approximately 1996 through 1999, the City worked together with WSDOT when that agency agreed to provide funding to enhance part of Bear Creek in the vicinity of Larry's Market. This project has been successfully completed and is to be a model in many ways for the remaining work to be addressed by the attached contract.

Approximately 1996, the City began to work with US Army Corps of Engineers to undertake rehabilitation of the remaining lower Bear Creek (which is the subject of the attached contract). Unfortunately, the Corp's rehabilitation program (designated 1135) stresses minimum stream improvements, requires an agency agreement which presented legal issues, and presented very strict and difficult real property issues. While the Corp would provide 75 percent of the funding for eligible costs, the overall quality of the Corp design and accompanying legal and property issues led to mutual agreement to terminate this joint project effort.

Current Project and Consultant Selection

The attached agreement will provide for completed plans, specifications and estimate (PS& E) suitable for construction bidding.

As noted under the following project costs, key project elements have been completed for this project. All completed elements have been done under contract with Entranco. Entranco has, however, recently undergone reorganization and has been purchased by another firm. The key staff that worked on the completed elements for this project are now working at David Evans & Associates. Maintaining continuity of key staff is very important to this project since the project has a fairly long and complex history and since the design direction has been established by the key staff. David Evans & Associates has been selected to maintain key staff continuity.

City staff is continuing to work with WSDOT to seek their financial participation in this project. Cost and additional funding information is presented in Section IV of this document. Timing issues are a key factor in this project and are discussed further in Section VI of this document.

IV. IMPACT

A. Service / Delivery:

This agreement will result in plans, specifications and engineering cost estimates suitable for project construction bidding to construct the Bear Creek Rehabilitation Project.

B. Fiscal:

Project Costs:

Preliminary Design (Completed):	\$ 379,535
Final Design and Permitting (DEA)	511,465
City Administration, Final Design	20,000
Construction Estimate	7,000,000
City Const. Administration	105,000
Monitoring	200,000
Total	<u>\$8,216,000</u>

Project Funding:

Stormwater CIP (25%)	\$2,054,000
Balance*	<u>6,162,000</u>
Total	<u>\$8,216,000</u>

- * Staff has, and continues to discuss funding for this Bear Creek project with the Washington State Department of Transportation (WSDOT). WSDOT's "Stage 3" project for SR520 is adjacent to Bear Creek and is related to stream buffers in the project area. At this time WSDOT has not determined that participation is necessary and has not committed funds for Bear Creek.

V. ALTERNATIVES

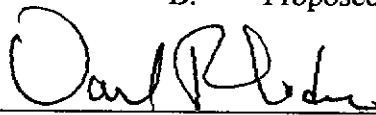
Conceptually, alternatives include modification to scope of work, direction to return at a later date, and termination of the project.

VI. TIME CONSTRAINTS

Staff believes approval of the consultant agreement at this time is timely and important to successful completion of work to rehabilitate the remaining part of lower Bear Creek. This agreement will allow completion of construction documents in a time frame that will allow work to be included in the WSDOT Stage 3 SR520 project in a timely manner.

VII. LIST OF ATTACHMENTS


- A. Vicinity Map
- B. Proposed Consultant Agreement



David Rhodes, Director of Public Works

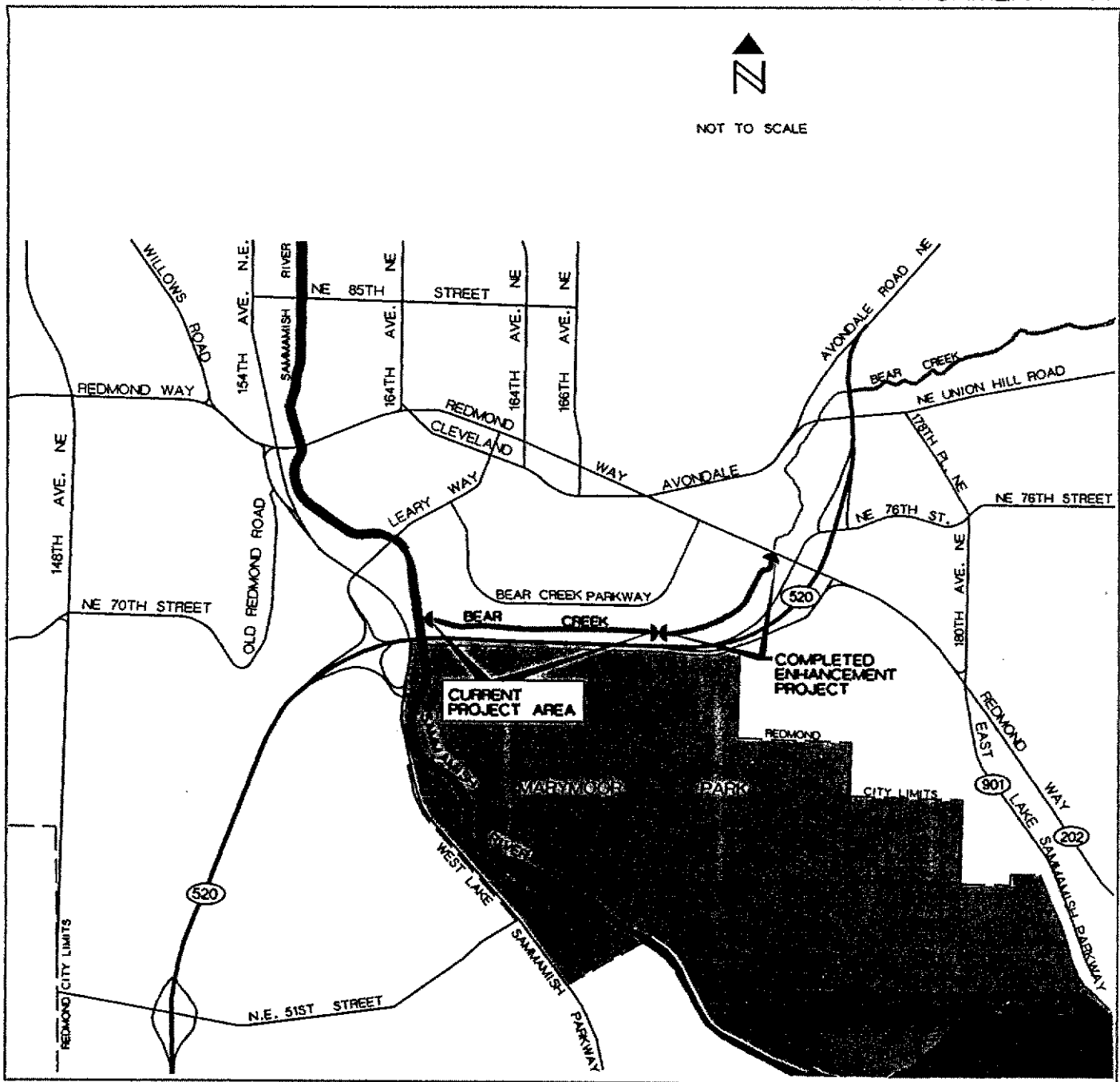
8.25.06
Date

Approved for Council Agenda



Rosemarie Ives, Mayor

8.25.06
Date



BEAR CREEK REHABILITATION

VICINITY MAP

ATTACHMENT B

CONSULTANT AGREEMENT	
PROJECT TITLE Bear Creek Rehabilitation Design and PS&E	WORK DESCRIPTION The CONSULTANT will provide construction documents for the rehabilitation of lower Bear Creek (approximately 3000 linear feet). The project will address the existing very poor fish habitat, flood conveyance issues, the need to coordinate with other projects anticipated in the area, and provide for other riparian improvements. The CONSULTANT will submit necessary permits and coordinate with permitting agencies.
PROJECT NO.	
CONSULTANT David Evans and Associates, Inc.	CONSULTANT ADDRESS 415-118th Avenue SE Bellevue, WA 98005
FEDERAL I.D. NO. 93-0661195	
MAXIMUM AMOUNT PAYABLE	COMPLETION DATE

THIS AGREEMENT, made and entered into this _____ day of _____, between the City of Redmond, Washington, hereinafter called the "CITY", and the above organization hereinafter called the "CONSULTANT".

WITNESSETH THAT:

WHEREAS, the CITY desires to accomplish the above referenced project; and

WHEREAS, the CITY does not have sufficient staff to meet the required commitment and therefore deems it advisable and desirable to engage the assistance of a consultant to provide the necessary services for the PROJECT; and

WHEREAS, the CONSULTANT represents that he/she is in compliance with the Washington State Statutes relating to professional registration, if applicable, and has signified a willingness to furnish consulting services to the CITY.

NOW THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated and made a part hereof, the parties hereto agree as follows:

I
GENERAL DESCRIPTION OF WORK

The work under this AGREEMENT shall consist of the above described work and services as herein defined and necessary to accomplish the completed work for this PROJECT. The CONSULTANT shall furnish all services, labor and related equipment necessary to conduct and complete the work as designated elsewhere in this AGREEMENT.

II
SCOPE OF WORK

The Scope of Work and project level of effort for this project is detailed in Exhibit "A" attached hereto, and by this reference made a part of this AGREEMENT.

III
GENERAL REQUIREMENTS

All aspects of coordination of the work of this AGREEMENT, with outside agencies, groups or individuals shall receive advance approval by the CITY. Necessary contacts and meetings with agencies, groups or individuals shall be coordinated through the CITY.

The CONSULTANT shall attend coordination, progress and presentation meetings with the CITY or such Federal, Community, State, City or County officials, groups or individuals as may be requested by the CITY. The CITY will provide the CONSULTANT sufficient notice prior to meetings requiring CONSULTANT participation. The CONSULTANT shall prepare a monthly progress report, in a form approved by the CITY, that will outline in written and graphical form the various phases and the order of performance of the work in sufficient detail so that the progress of the work can easily be evaluated.

All reports, plans & specifications, and other data, furnished to the CONSULTANT by the CITY shall be returned. All designs, drawings, specifications, documents, and other work products prepared by the CONSULTANT prior to completion or termination of this AGREEMENT are instruments of service for this PROJECT and are property of the CITY. Reuse by the CITY or by others acting through or on behalf of the CITY of any such instruments of service, not occurring as a part of this PROJECT, shall be without liability or legal exposure to the CONSULTANT.

IV
TIME FOR BEGINNING AND COMPLETION

The CONSULTANT shall not begin any work under the terms of this AGREEMENT until authorized in writing by the CITY. All work under this AGREEMENT shall be completed by the date shown in the AGREEMENT under completion date.

The established completion time shall not be extended because of any delays attributable to the CONSULTANT, but may be extended by the CITY, in the event of a delay attributable to the CITY, or because of unavoidable delays beyond the control of the CONSULTANT.

V PAYMENT

The CONSULTANT shall be paid by the CITY for completed work and services rendered under this AGREEMENT as provided in Exhibit "B" attached hereto, and by this reference made part of this AGREEMENT. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work specified in Section II, "Scope of Work". The CONSULTANT shall conform with all applicable portions of 48 CFR 31.

VI SUBCONTRACTING

The CITY permits subcontracts for those items of work as shown in Exhibit "D" to this AGREEMENT.

Compensation for this subconsultant work shall be based on the cost factors shown in Exhibit "D", attached hereto and by this reference made a part of this AGREEMENT.

The work of the subconsultant shall not exceed its maximum amount payable unless a prior written approval has been issued by the CITY.

All reimbursable hourly rates and direct non-salary costs for the subconsultant shall be substantiated in the same manner as outlined in Section V. All subcontracts exceeding \$10,000 in cost shall contain all applicable provisions of this AGREEMENT.

The CONSULTANT shall not subcontract for the performance of any work under this AGREEMENT without prior written permission of the CITY. No permission for subcontracting shall create, between the CITY and subcontractor, any contract or any other relationship.

VII EMPLOYMENT

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the CONSULTANT, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award or making of this contract. For breach or violation of this warrant, the CITY shall have the right to annul this AGREEMENT without liability, or in its discretion, to deduct from the AGREEMENT price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

Any and all employees of the CONSULTANT or other persons while engaged in the performance of any work or services required of the CONSULTANT under this AGREEMENT, shall be considered employees of the CONSULTANT only and not of the CITY, and any and all claims that may or might arise under any Workmen's Compensation Act on behalf of said employees or other persons while so engaged, and any and all claims made by a third party as a consequence of any act or omission on the part

of the CONSULTANT's employees or other persons while so engaged on any of the work or services provided to be rendered herein, shall be the sole obligation and responsibility of the CONSULTANT.

The CONSULTANT shall not engage, on a full or part time basis, or other basis, during the period of the contract, any professional or technical personnel who are, or have been, at any time during the period of the contract, in the employ of the CITY, except regularly retired employees, without written consent of the public employer of such person.

VIII NONDISCRIMINATION

The CONSULTANT agrees not to discriminate against any client, employee or applicant for employment or for services because of race, creed, color, religion, national origin, marital status, sex, age or handicap except for a bona fide occupational qualification with regard to, but not limited to the following: employment upgrading, demotion or transfer, recruitment or any recruitment advertising, a layoff or terminations, rates of pay or other forms of compensation, selection for training, or rendering of services. The CONSULTANT understands and agrees that if it violates this provision, this AGREEMENT may be terminated by the CITY and further that the CONSULTANT shall be barred from performing any services for the CITY now or in the future unless a showing is made satisfactory to the CITY that discriminatory practices have terminated and that recurrence of such action is unlikely.

During the performance of this AGREEMENT, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

- A. **COMPLIANCE WITH REGULATIONS:** The CONSULTANT shall comply with the Regulations relative to nondiscrimination in the same manner as in Federally-assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the AGREEMENT. The CONSULTANT shall comply with the Americans with Disabilities Act of 1992, as amended.
- B. **NONDISCRIMINATION:** The CONSULTANT, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, creed, color, religion, sex, age, marital status, national origin or handicap except for a bona fide occupational qualification in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix II of the Regulations.
- C. **SOLICITATIONS FOR SUBCONSULTANTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT:** In all solicitations either by competitive bidding or negotiation made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subconsultant or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this AGREEMENT and the Regulations relative to nondiscrimination on the grounds of race, creed, color, religion, sex, age, marital status, national origin and handicap.
- D. **INFORMATION AND REPORTS:** The CONSULTANT shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its

books, records, accounts, other sources of information, and its facilities as may be determined by the CITY to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of the CONSULTANT is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to the CITY, and shall set forth what efforts it has made to obtain the information.

E. **SANCTIONS FOR NONCOMPLIANCE:** In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this AGREEMENT, the CITY shall impose such sanctions as it may determine to be appropriate, including, but not limited to:

1. Withholding of payments to the CONSULTANT under the AGREEMENT until the CONSULTANT complies, and/or
2. Cancellation, termination or suspension of the AGREEMENT, in whole or in part.

F. **INCORPORATION OF PROVISIONS:** The CONSULTANT shall include the provisions of paragraphs (A) through (G) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subconsultant or procurement as the CITY may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a CONSULTANT becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the CONSULTANT may request the CITY to enter into such litigation to protect the interests of the CITY.

G. **UNFAIR EMPLOYMENT PRACTICES:** The CONSULTANT shall comply with RCW 49.60.180.

IX TERMINATION OF AGREEMENT

The right is reserved by the CITY to terminate this AGREEMENT at any time upon ten days written notice to the CONSULTANT.

In the event this AGREEMENT is terminated by the CITY other than for fault on the part of the CONSULTANT, a final payment shall be made to the CONSULTANT for actual hours charged at the time of termination of the AGREEMENT plus any direct nonsalary costs incurred at the time of termination of the AGREEMENT.

No payment shall be made for any work completed after ten days following receipt by the CONSULTANT of the Notice to terminate. If the accumulated payment made to the CONSULTANT prior to Notice of Termination exceeds the total amount that would be due, computed as set forth herein above, then no final payment shall be due and the CONSULTANT shall immediately reimburse the CITY for any excess paid.

If the services of the CONSULTANT are terminated by the CITY for default on the part of the CONSULTANT, the above formula for payment shall not apply. In such an event, the amount to be paid shall be determined by the CITY with consideration given to the actual costs incurred by the CONSULTANT in performing the work to the date of termination, the amount of work originally required which was satisfactorily completed to date of termination, whether that work is in a form or a type which is usable to the CITY at the time of termination; the cost to the CITY of employing another

firm to complete the work required and the time which may be required to do so, and other factors which affect the value to the CITY of the work performed at the time of termination. Under no circumstances shall payment made under this subsection exceed the amount which would have been made using the formula set forth in the previous paragraph.

If it is determined for any reason that the CONSULTANT was not in default or that the CONSULTANT's failure to perform is without it or its employee's fault or negligence, the termination shall be deemed to be a termination for the convenience of the CITY in accordance with the provision of the AGREEMENT.

In the event of the death of any member, partner or officer of the CONSULTANT or any of its supervisory personnel assigned to the project, or, dissolution of the partnership, termination of the corporation, or disaffiliation of the principally involved employee, the surviving members of the CONSULTANT hereby agree to complete the work under the terms of the AGREEMENT, if requested to do so by the CITY. The subsection shall not be a bar to renegotiation of the AGREEMENT between the surviving members of the CONSULTANT and the CITY, if the CITY so chooses.

In the event of the death of any of the parties listed in the previous paragraph, should the surviving members of the CONSULTANT, with the CITY's concurrence, desire to terminate this AGREEMENT, payment shall be made as set forth in the second paragraph of this section.

Payment for any part of the work by the CITY shall not constitute a waiver by the CITY of any remedies of any type it may have against the CONSULTANT for any breach of the AGREEMENT by the CONSULTANT, or for failure of the CONSULTANT to perform work required of it by the CITY. Forbearance of any rights under the AGREEMENT will not constitute waiver of entitlement to exercise those rights with respect to any future act or omission by the CONSULTANT.

X CHANGES OF WORK

The CONSULTANT shall make such changes and revisions in the complete work of this AGREEMENT as necessary to correct errors appearing therein when required to do so by the CITY, without additional compensation thereof. Should the CITY find it desirable for its own purposes to have previously satisfactorily completed work or parts thereof changed or revised, the CONSULTANT shall make such revisions as directed by the CITY. This work shall be considered as Extra Work and will be paid for as herein provided under Section XIV.

XI DISPUTES

Any dispute concerning questions of fact in connection with the work not disposed of by AGREEMENT between the CONSULTANT and the CITY shall be referred for determination to the Director of Public Works or City Engineer, whose decision in the matter shall be final and binding on the parties of this AGREEMENT, provided however, that if an action is brought challenging the Director of Public Works or City Engineer's decision, that decision shall be subject to de novo judicial review.

XII
VENUE, APPLICABLE LAW AND
PERSONAL JURISDICTION

In the event that either party deems it necessary to institute legal action or proceedings to enforce any right or obligation under this AGREEMENT, the parties hereto agree that any such action shall be initiated in the Superior court of the State of Washington, situated in King County. The parties hereto agree that all questions shall be resolved by application of Washington law and that the parties to such action shall have the right of appeal from such decisions of the Superior court in accordance with the law of the State of Washington. The CONSULTANT hereby consents to the personal jurisdiction of the Superior court of the State of Washington, situated in King County.

XIII
LEGAL RELATIONS AND INSURANCE

The CONSULTANT shall comply with all Federal, State, and local laws and ordinances applicable to the work to be done under this AGREEMENT. This AGREEMENT shall be interpreted and construed in accord with the laws of Washington.

The CONSULTANT shall indemnify and hold the CITY and their officers and employees harmless from and shall process and defend at its own expense all claims, demands or suits at law or equity arising in whole or in part from the CONSULTANT's negligence or breach of any of its obligations under this AGREEMENT; provided that nothing herein shall require a CONSULTANT to indemnify the CITY against and hold harmless the CITY from claims, demands or suits based solely upon the conduct of the CITY, their agents, officers and employees and provided further that if the claims or suits are caused by or result from the concurrent negligence of (a) the CONSULTANT's agents or employees and (b) the CITY, their agents, officers and employees, this indemnity provision with respect to (1) claims or suits based upon such negligence, (2) the costs to the CITY of defending such claims and suits, etc. shall be valid and enforceable only to the extent of the CONSULTANT's negligence or the negligence of the CONSULTANT's agents or employees.

The CONSULTANT's relation to the CITY shall be at all times as an independent contractor.

The CONSULTANT specifically assumes potential liability for actions brought by the CONSULTANT's own employees against the CITY and, solely for the purpose of this indemnification and defense, the CONSULTANT specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The CONSULTANT recognizes that this waiver was specifically entered into pursuant to the provisions of RCW 4.25.115 and was the subject of mutual negotiation.

Unless otherwise specified in the AGREEMENT, the CITY shall be responsible for administration of construction contracts, if any, on the project. Subject to the processing of an acceptable, supplemental agreement, the CONSULTANT shall provide on-call assistance to the CITY during contract administration. By providing such assistance, the CONSULTANT shall assume no responsibility for: proper construction techniques, job site safety, or any construction contractor's failure to perform its work in accordance with the contract documents.

The CONSULTANT shall obtain and keep in force during the terms of the AGREEMENT, or as otherwise required, the following insurance with companies or through sources approved by the State Insurance Commissioner pursuant to RCW 48.

Insurance Coverage

- A. Worker's compensation and employer's liability insurance as required by the State of Washington.
- B. Regular public liability and property damage insurance in an amount not less than a single limit of two million and 00/100 Dollars (\$2,000,000.00) for bodily injury, including death and property damage per occurrence.
- C. Professional liability insurance in the amount of \$1,000,000 or more against claims arising out of work provided for in this contract.

The amounts listed above are the minimum deemed necessary by the CITY to protect the CITY's interests in this matter. The CITY has made no recommendation to the CONSULTANT as to the insurance necessary to protect the CONSULTANT's interests and any decision by the CONSULTANT to carry or not carry insurance amounts in excess of the above is solely that of the CONSULTANT.

All insurance shall be obtained from an insurance company authorized to do business in the State of Washington. Excepting the professional liability insurance, the CITY will be named on all insurance as an additional insured. The CONSULTANT shall submit a certificate of insurance to the CITY evidencing the coverages specified above, together with an additional insured endorsement naming the CITY, within fifteen (15) days of the execution of this agreement. The additional insured endorsement shall provide that to the extent of the CONSULTANT's negligence, the CONSULTANT's insurance shall be primary and non-contributing as to the CITY, and any other insurance maintained by the City shall be excess and not contributing insurance with respect to the CONSULTANT's insurance. The certificates of insurance shall cover the work specified in or performed under this agreement. No cancellation, reduction or modification of the foregoing policies shall be effective without thirty (30) days prior written notice to the CITY.

The CITY will pay no progress payments under Section V until the CONSULTANT has fully complied with this section. This remedy is not exclusive; and the CITY may take such other action as is available to them under other provisions of this AGREEMENT, or otherwise in law.

XIV EXTRA WORK

The CITY may at any time, by written order, make changes within the general scope of the AGREEMENT in the services to be performed.

If any such change causes an increase or decrease in the estimated cost of, or the time required for, performance of any part of the work under this AGREEMENT, whether or not changed by the order, or otherwise affects any other terms and conditions of the AGREEMENT, the CITY shall make an equitable adjustment in the (1) maximum amount payable; (2) delivery or completion schedule, or both; and (3) other affected terms and shall modify the AGREEMENT accordingly.

The CONSULTANT must submit its "request for equitable adjustment" (hereafter referred to as claim) under this clause within 30 days from the date of receipt of the written order. However, if the CITY

decides that the facts justify it, the CITY may receive and act upon a claim submitted before final payment of the AGREEMENT.

Failure to agree to any adjustment shall be a dispute under the Disputes clause. However nothing in this clause shall excuse the CONSULTANT from proceeding with the AGREEMENT as changed.

Notwithstanding the terms and conditions of the first two paragraphs above, the maximum amount payable for this AGREEMENT, shall not be increased or considered to be increased except by specific written supplement to this AGREEMENT.

XV ENDORSEMENT OF PLANS

The CONSULTANT shall place its endorsement on all plans, estimates or any other engineering data furnished by them.

XVI COMPLETE AGREEMENT

This document and referenced attachments contains all covenants, stipulations and provisions agreed upon by the parties. No agent, or representative of either party has authority to make, and the parties shall not be bound by or be liable for, any statement, representation, promise or agreement not set forth herein. No changes, amendments, or modifications of the terms hereof shall be valid unless reduced to writing and signed by the parties as an amendment to this AGREEMENT.

XVI EXECUTION AND ACCEPTANCE

This AGREEMENT may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. The CONSULTANT does hereby ratify and adopt all statements, representations, warranties, covenants, and agreements contained in the proposal, and the supporting materials submitted by the CONSULTANT, and does hereby accept the AGREEMENT and agrees to all of the terms and conditions thereof.

In witness whereof, the parties hereto have executed this AGREEMENT as of the day and year first above written.

CONSULTANT

By: Senior Associate

Title: Service President

CITY OF REDMOND

By: _____
Rosemarie Ives, Mayor

ATTEST: _____
City Clerk

APPROVED AS TO FORM:

City Attorney

EXHIBIT A
SCOPE OF WORK
ATTACHMENT A
SCOPE OF SERVICES

PROJECT: Bear Creek Rehabilitation Design and PS&E
CONSULTANT Project No.:
Task Manager: Jon Gage (425) 519-6592
(425) 519-5361 (fax)
Contract Manager: Dale Anderson (425) 519-6595
Task End Date: July 1, 2007

I. INTRODUCTION

The City of Redmond (CITY) is contracting with David Evans and Associates, Inc. (CONSULTANT) to review, update as necessary, and complete construction documents for the rehabilitation of lower Bear Creek, extending from the confluence with the Sammamish River upstream a distance of approximately 3000 feet. The work will integrate the upstream end of the project with the downstream end of the previously constructed Bear Creek Enhancement Project on Parcel 9, Binding Site Plan of Redmond Town Center. This project will address the existing very poor fish habitat, flood conveyance issues, the need to coordinate with other projects anticipated in this area, and provide for other riparian improvements.

Current CONSULTANT staff, while employed at DMJM Harris and Entranco, conducted the planning and design for the previously constructed reach of Bear Creek that was completed in 2000. The same staff also prepared a *Preliminary Design Report for Bear Creek Rehabilitation, January 2006*. This report was approved by the CITY and serves as a basis for this contract.

The purpose of this project will be to prepare final construction documents using CITY design standards, plan set format and necessary coordination with the Washington State Department of Transportation (WSDOT).

The scope is based on two follow-up meetings with the CITY and CONSULTANT in February 2006. The work will include updating the base map; performing hydrologic/hydraulic analyses; preparing design submittals at the 60 percent, 90 percent, and Final design stages, and assisting the CITY in determining a partnership strategy with WSDOT. It will also include local, State, and Federal permit coordination with resource agencies as defined in this scope and the preparation and submittal of formal permit applications including plan revisions as warranted.

II. DESIGN AND REVIEW CRITERIA

The CITY will update the basic premises and criteria for the design and construction which are to be consistent with the *Preliminary Design Report for Bear Creek Rehabilitation, January 2006*. Reports and Plans, to the extent feasible, will be developed in accordance with the latest edition and amendments (as of the date of signing of this Agreement) of the documents listed herein.

Changes in design standards or requirements after work has begun may result in Extra Work. Changes in design or standards will be evaluated as they occur for inclusion.

Measurements will be in English units.

Stream design guidelines:

- The Federal Interagency Stream Restoration Working Group. 2001. *Stream Corridor Restoration Principles, Processes, and Practices*
- Inter-Fluve, Inc. 2001. *Process Based Channel Design Innovative Approaches for Repairing Disturbed Stream and River Environments*
- State of Washington Department of Fish and Wildlife. 2003. *Integrated Streambank Protection Guidelines*

Design and other standards:

- Washington State Regulations, "Accessibility Design for All (ADA)," 1995 edition
- *Preliminary Design Report for Bear Creek Rehabilitation* (DMJM Harris, January 2006)
- Flood Insurance Study, King County, Washington and Incorporated Areas (Federal Emergency Management Agency [FEMA], May 16, 1995) and subsequent map revisions as of May 2002
- *Stormwater Management Manual for Western Washington* (Washington State Dept. of Ecology 2001)
- Bear Creek Basin Plan (King County 1992)
- Department of Ecology, Shoreline master plan guidelines Chapter 173-26-WAC Shoreline Management Act
- CITY Critical Areas Ordinance and Clearing/Grading Regulations and other applicable CITY regulations Effective May 28, 2005
- CITY of Redmond "Stormwater Management and Erosion Control Technical Notebook"
- 2006 WSDOT Standard Specifications and Amendments and City of Redmond Special Provisions
- See Section IV of this contract, for additional standards and submittal requirements

III.DETAILED SCOPE OF WORK

A. Survey and Base Map

CONSULTANT shall update base map suitable for design for the project site, extending from the Sammamish River outfall upstream to the project interface of the previously constructed Bear Creek Rehabilitation Project on Parcel 9, Binding Site Plan of Redmond Town Center. This will include updating existing survey base map information to conform to WSDOT vertical (NAVD 88) and horizontal (NAD 83(91)) datums. CONSULTANT will report any discrepancies between the horizontal and vertical datums reported and information shown on the base mapping previously provided by WSDOT, the CITY and Pace Engineering. Additional survey work to resolve any discrepancies will be conducted as extra work (if necessary). CITY will request from

WSDOT the fill lines and/or retaining wall limits and other land areas anticipated for future roadway projects(s) along the SR 520 corridor in the vicinity of the Bear Creek project.

Deliverables:

1. 5 copies of the final base map in WSDOT datums

B. Soils Analyses

CONSULTANT shall subcontract with a qualified geotech for supplemental soils data (because of the highly permeable soils on site and groundwater table below the creek level).

The subconsultant will conduct fieldwork to conduct

- surface reconnaissance;
- subsurface explorations using test pits;
- seepage evaluations related to the new channel and existing channel.

The subconsultant will provide design recommendations for

- stream channel liner/seal to prevent subsurface flow;
- soil amendments for wetland creation areas to create hydric soils;
- channel construction techniques to minimize seepage from existing channel into the proposed channel.

Deliverables:

1. Technical Memo - Geotechnical assessment of soils data that describes deficiencies and recommendations for stream channel liner, created wetland soil amendments and channel construction

C. Hydrologic/Hydraulic Analyses

Flood Hydraulic Analyses

CONSULTANT shall update the HEC-RAS hydraulic analyses of Bear Creek (DMJM Harris, 2006) in the vicinity of the proposed project to determine effects of the proposed project. Different HECRAS hydraulic models will be used to provide water surface elevations during flood flows and channel/overbank velocities for project design and for project permitting. They will also be used to establish a design flood to use for construction bypass requirements during the construction window.

The objective will be to prepare pre and post Phase 2 rehabilitation project hydraulic models of Bear Creek beginning at the Sammamish River and extending upstream to Redmond Way. The Sammamish River will be the downstream boundary, and no hydraulic modeling will be conducted in the Sammamish River. The CITY and CONSULTANT shall be involved in selecting the Sammamish River tailwater elevations to use in modeling. Hydraulic modeling will also address modifications to the proposed conditions which will include addition of assumed footprints for two pedestrian bridges in the floodplain, the widening of Bear Creek Parkway, and WSDOT SR 520 Stage 3 in the vicinity of the Bear Creek project.

Bridge #1 is planned as future improvement, and it will cross the mouth of Bear Creek, just upstream of its confluence with the Sammamish River. Pedestrian bridge #2 is a concept that should not be precluded by this project. It will likely be located upstream, adjacent to the Desert Fire Restaurant in Redmond Town Center and would cross over Bear Creek and SR 520 and terminate in Marymoor Park. The CONSULTANT shall make reasonable assumptions regarding the pier footprints for bridges #1 and #2 to perform the hydraulic analyses.

The hydraulic modeling for this project will need to be coordinated with other work currently planned in the lower Bear Creek corridor. Consideration of the following is necessary: the CITY's planned widening of Bear Creek Parkway, the State's planned widening of SR 520, and the inclusion of a regional multi-purpose trail parallel to and on the north side of Bear Creek.

Various flow conditions will need to be considered in response to the new CITY Critical Areas Ordinance (CAO) requirements. Existing condition stream flows used for these hydraulic analyses will be based upon FEMA regulatory flows and the HSPF model developed by King County for the Bear/Evans Basin Plan. The CITY CAO will require "0-rise" compliance using future flood flows reflecting buildout conditions. Future flows representing buildout conditions will be determined in consultation with the CITY to ensure compliance with the CITY CAO.

Using these various conditions, up to ten modeling scenarios will be developed in anticipation of upcoming projects, floodplain revisions, and the CITY CAO. These models will serve as the basis for comparison for pre- and post-project conditions. The multiple scenarios allow flexibility for predicting various conditions for a variety of assumed changes both on a site level and a basin level. CONSULTANT will coordinate with the CITY and WSDOT to evaluate these various scenarios and determine which scenarios are applicable for obtaining appropriate modeling results for the needs of the project.

These analyses will also form the basis for the conditional letter of flood plain map revisions (CLOMR) that will be required for the proposed project. The Existing Conditions model will be compared to FEMA's Effective Model (obtained from FEMA) to ensure that it is duplicative. The post-project model will be used to generate surface water elevations for 100- and 500-year return periods. These results will be compared with the existing flood insurance study.

CONSULTANT will confirm that the model has an effective tie-in with the upstream and downstream reaches. An effective tie-in is obtained when the revised base flood and floodway elevations are within 0.5 foot of the effective elevations, and the revised floodway encroachment stations match the effective floodway stations at both the upstream and downstream limits.

CONSULTANT will map predicted boundaries of the 100-, and 500-year return period floodplain on the project topographic map. These floodplain elevations will be compared to the Base Flood Elevations on the Flood Insurance Rate Map. If there are changes, a revised working map will be provided showing the Special Flood Hazardous Area and floodway boundary delineations based on the modified models.

Floodplain maps and profiles will be prepared for the entire project site extending from the vicinity of Redmond Way to the Sammamish River outlet for the "existing" and "proposed" conditions. Results from the hydrologic and hydraulic analyses will be used in the appropriate permitting documentation described in Task G.

Seasonal Flow Analyses - Inundation of Plant Communities and Fish Passage

The hydrologic and hydraulic analysis will also be used to assess in-stream conditions and expected water level fluctuations within adjacent or constructed wetlands. HSPF and HEC RAS will be used to determine seasonal flows and water surface elevations to determine critical elevations for plant communities, and fish passable depths for lower seasonal flows.

Deliverables:

Flood Hydraulic Analyses:

1. 5 copies of the Existing Floodplain Map and profiles with supporting documents
2. 5 copies of the Proposed Floodplain Map and profiles with supporting documents

Seasonal Flow Analyses -Inundation of Plant Communities and Fish:

1. 5 copies of a technical memo

D. WSDOT Partnering Strategy Analyses

CONSULTANT shall determine alternative strategies for project partnership with WSDOT, furnish up to three alternatives that explore a CITY/WSDOT partnership to implement this project in conjunction with SR 520 Corridor improvements, coordinate between CITY and WSDOT to identify project constraints and recommend potential solutions, and help develop a memorandum of understanding (MOU) between CITY and WSDOT to document the parameters for this partnership as the project moves forward. CONSULTANT shall meet up to six times with the CITY and/or WSDOT to determine the alternatives.

Deliverables:

1. 5 copies of Draft and Final MOU between CITY and WSDOT

E. Draft Plans, Specifications and Estimate (60 percent)

Draft design will advance the conceptual design proposed in the *Bear Creek Rehabilitation Project Design Report, January 2006*, to the 60 percent complete level.

The 60 percent plans, specifications, and estimate package will be submitted for review and comment by the Stakeholders. Stakeholders for this project are defined as the CITY, WSDOT, and Macerich. CITY will consolidate CITY review comments onto one set of plans and specifications. The CITY will provide direction where Stakeholder comments conflict with other comments or with the design goals for the project. The following plans, specifications, and estimate for the stream and wetland mitigation sites will be delivered at the 60 percent completion level:

1. Cover sheet (1 sheet)
2. Summary of quantities (1 sheet)
3. Grading, habitat, alignment and layout plans (7 sheets – includes trail and revised drainage to replace 3 infiltration ponds)
4. Project control and coordinate table (3 sheets)

5. Profile of proposed stream channel alignment (2 sheets)
6. Profile of the proposed trail (2 sheets)
7. Channel and flood plain cross sections (2 sheets)
8. Habitat details (5 sheets)
9. Planting plan (7 sheets)
10. Plant material list (1 sheet)
11. Planting details (2 sheets)
12. Temporary irrigation plan (4 sheets)
13. Temporary irrigation details (1 sheet)
14. Profile and details of stormwater facilities to replace 3 infiltration ponds, assuming matching existing design basis (2 sheets)
15. Temporary erosion sediment control plan and details and demolition plan (trail and infiltration ponds) (9 sheets)
16. Traffic control plan (2 sheets)
17. Special provisions
18. Engineers estimate of probable construction cost
19. Stormwater Pollution Prevention Plan (SWPP) for Appendix (from Task G)
20. Water Control Plan for In-Stream Construction
21. Geotechnical Assessment (Technical Memo from Task B)

Deliverables – See Section IV for special submittal requirements:

1. 5 copies of the Pre-draft and Draft Plan Sheets
2. 5 copies of the Pre-draft and Draft Special Provisions
3. 5 copies of the Pre-draft and Draft Engineers Estimate of probable construction cost

F. Plans Specifications and Estimates (90 and 100 percent)

CONSULTANT shall prepare engineered plans, specifications, and estimates based upon the Draft Design completed under Element E. Final design drawings, special provisions, and updated engineers estimate will be submitted for review and comment at the 90 percent complete design stage. CITY will consolidate CITY review comments onto one set of plans and specifications. Stakeholders reviews will be conducted, if necessary, to address all comments. The CITY will provide direction where Stakeholder comments conflict with other comments or with the design goals for the project. CONSULTANT shall prepare a construction schedule for review by CITY.

Once CONSULTANT has addressed comments, the Final Plans, Special Provisions, and Estimate will be submitted and reviewed by the CITY to insure that all comments have been addressed. The Final Plans, Special Provisions, and Estimate package shall include final

revisions to the 100 percent package, which will then be assembled in form and content that is suitable for advertisement.

Deliverables – See Section IV for special submittal requirements:

1. 5 copies of the 90 percent complete quantities, Plans (22" x 34", stapled), Special Provisions, Construction Schedule and Engineers Estimate
2. 5 copies of the 100 percent complete quantities, Plans (22" x 34", stapled), Special Provisions, Construction Schedule and Engineers
3. 40 copies of the Final, stamped and signed Plans (8-1/2" x 11" with 11" x 17" sheets, stapled), Special Provisions, Construction Schedule and Engineers Estimate
4. Attendance at two roundtable meetings, if necessary

G. Coordination and Documentation in Support of Project Permitting

CONSULTANT will coordinate with resource agencies and will prepare and submit formal permit applications, including plan revisions as warranted.

CONSULTANT will prepare a draft and final of the following deliverables:

- Critical Areas Report
- SEPA checklist based upon the concept plan proposed in the Bear Creek Rehabilitation Project Design Report, January 2006.
- CITY Flood Zone Permit Application.
- CITY Clearing / Grading permit Application
- Joint Aquatic Resource Permit Application (JARPA) Washington State Department of Ecology, Washington State Department of Fish and Wildlife, and U.S. Army Corps of Engineers.
- Biological Assessment for U.S. Army Corps of Engineers Endangered Species Act compliance.
- National Pollution Discharge Elimination System Permit (NPDES) Application.
- Stormwater Pollution Prevention Plan. The CITY's special erosion and sedimentation requirements for this project will also be addressed.
- FEMA Compliance – CLOMR.

In addition to the delivery of the above products, CONSULTANT will provide up to 160 hours of support for permit coordination with the CITY, and resource agencies to consider and respond to comments received from agencies and prepare permit revisions, as warranted. Applications will be submitted for review and comment at the 60 percent complete design stage (See Task E for City's 60% Pre-draft review). CITY will consolidate review comments of the draft deliverables into one set.

Deliverables:

1. 5 copies of the Draft and Final Critical Areas Report
2. 5 copies of the Draft and Final SEPA checklist

3. 5 copies of the Draft and Final Clearing / Grading permit Application
4. 5 copies of the Draft and Final JARPA including design plans formatted to support the application suitable for submission
5. 5 copies of the Draft and Final Biological Assessment
6. 5 copies of the Draft and Final National Pollution Discharge Elimination System Permit (NPDES) Application.
7. 5 copies of the Draft and Final Stormwater Pollution Prevention Plan
8. 5 copies of the Draft and Final Flood Zone Permit Application
9. 5 copies of the Draft and Final CLOMR to FEMA

H. Quality Control Plan

CONSULTANT shall prepare a quality control plan that describes how independent technical review will be conducted on the design of the Bear Creek project. The plan will be submitted to the CITY for review and comment. CONSULTANT shall address comments and submit final plan.

I. Project Administration

CONSULTANT shall provide project administration including budget and schedule management, subconsultant coordination and management, internal quality assurance/quality control review of deliverables prior to submission, and maintenance of records and monthly invoicing. Monthly meetings will be scheduled to review the schedule and budget, resolve design issues, and review the QA/QC redlines. Project duration of 12 months is assumed for the Design Phase.

Deliverables:

1. Monthly progress reports and invoices
2. Monthly update of the project schedule
3. Monthly project update meetings
4. Final project documents and files delivered to CITY at project closure

J. Project Contingency

This task establishes a 25 percent project contingency to address the potential for additional work. Additional work items that could be addressed under this task include, but are not limited to, the items that follow:

- Updated field survey data for base map
- Additional effort relating to updating base map
- Additional soils and geotechnical information (see task III.C)
- Software / hardware to assure compatibility with City electronic mapping requirements
- Site-specific baseline environmental surveys; biological field investigations

- Well and/or piezometer installation and monitoring for wetland creation
- Baseline stream and overbank environmental monitoring and subsequent monitoring per permit conditions
- Up-to-date wetland delineations and classifications per resource agency and design needs
- Test pit and soils data for the project site
- Additional work to respond to issues raised during permit reviews and regulatory processing
- Potential future supplemental agreements
- Additional meetings as requested by the CITY
- Design changes in stream or wetland
- Structural and geotechnical engineering services related to pedestrian bridges
- Flood analysis for regulatory compliance, including FEMA work not specified in the previous scope
- Bid and Construction Assistance
- Rehabilitation monitoring plan during and after construction

IV. DOCUMENTS TO BE FURNISHED BY CONSULTANT

CITY agrees that all reports, plans, specifications, field data and notes and other documents, whether in hardcopy or in electronic form, including but not limited to software, e-mail or internet transfers, prepared by CONSULTANT or CONSULTANT'S subconsultants, are instruments of professional service and are not products. In a discrepancy between a hardcopy document and electronic media, the hardcopy document shall govern.

Special City submittal requirements for the products include final products in a MicroStation format.

V. ITEMS AND SERVICES TO BE FURNISHED BY CITY

CITY will provide the following items and services to CONSULTANT that will facilitate the preparation of the plans and studies within the limits of the project. CONSULTANT is entitled to rely on the accuracy and completeness as stated in or reasonably implied by the data furnished by others.

1. Any best available record drawings and information on the current project and on public works and/or private projects in the immediate vicinity. This particularly includes SR 520 for existing roadway and future roadway footprints and drainage facilities. The CITY will request this information from WSDOT. Included will be an electronic CAD file of the proposed base at a datum, orientation, origin and scale compatible with the project. This file will include at a minimum; control points, edge of pavement, edge of roadway, right of way, cut and fill line, center line, stationing, slopes, proposed overhead and underground utilities, grading at one foot contours, all elevation points, irrigation, footings and foundations of structures, and drainage features. Drainage features will include type, materials, size, inverts, slopes, and any detention/water quality facilities.

Text will be located on a separate level or layer from line or hatch data. 3D files will be provided if available.

2. Redmond to provide Bear Creek Parkway footprint and review and approve of the locations for pedestrian bridges #1 and #2.
3. All required existing traffic control data to support preparation of the traffic control plan (see subtask F.15).
4. Timely reviews of all work at mutually agreed upon times and consolidation of all CITY review comments onto one review set prior to return to CONSULTANT.
5. Rights-of-entry upon all lands necessary for the performance of the work.
6. Arrangements for public meetings, including meeting place and announcements, etc.
7. Payment of all review and/or permit fees.
8. Drawings in MicroStation V8 files at a minimum, in format compatible with CONSULTANT's hardware/software. Any reformatting or reconfiguration or hardware/software purchase necessary to make the supplied files compatible will be considered Additional or Extra Work.
9. Right-of-way information.
10. The notice of intent (NOI) for the Ecology NPDES.

VI. Actions to be taken by the CITY

- The 60 percent Plans, Specifications and Estimate package will be submitted for review and comment by the CITY. The CITY will consolidate CITY review comments onto one set of plans and specifications.
- Stakeholders will review this set and a roundtable meeting will be held to address all comments. The CITY will provide direction where Stakeholder comments conflict with other comments or with the design goals for the project.
- Once CONSULTANT has addressed comments, the 100 percent Plans, Special Provisions and Estimate will be submitted and reviewed by the stakeholders.
- All draft permitting deliverables - the CITY will consolidate CITY review comments onto one document.

VII. SCHEDULING

CITY and CONSULTANT will conduct workforce scheduling/coordination required to complete this work in a timeframe determined by the CITY. It will be the responsibility of the CITY and CONSULTANT's project manager (or their designees) to provide this coordination.

EXHIBIT B

PAYMENT (NEGOTIATED HOURLY RATE)

The CONSULTANT shall be paid by the CITY for completed work and services rendered under this AGREEMENT as provided hereinafter. Such payment shall be full compensation for work performed or services rendered and for all labor, materials, supplies, equipment, and incidentals necessary to complete the work. The CONSULTANT shall conform with all applicable portions of 48 CFR 31.

1. Hourly Rates

The CONSULTANT shall be paid by the CITY for work done, based upon the negotiated hourly rates shown in Exhibit "C" attached hereto and by this reference made part of the AGREEMENT. The rates listed shall be applicable for the first 12-month period and shall be subject to negotiation for the following 12-month period upon request of the CONSULTANT or the CITY. If negotiations are not conducted for the second or subsequent 12-month periods within 90 days after completion of the previous period, the rates listed in this AGREEMENT or subsequent written authorization(s) from the CITY shall be utilized for the life of the AGREEMENT. The rates are inclusive of direct salaries, payroll additives, overhead, and fee.

In the event renegotiation of the hourly rates is conducted, the CITY reserves the right to audit for any change in the overhead rate currently in use by the CONSULTANT and modify the hourly rates to be paid to the CONSULTANT subsequent to the renegotiation accordingly. Any changes in the CONSULTANT'S fixed hourly rates may include salary or overhead adjustments.

2. Direct Nonsalary Costs

Direct nonsalary costs will be reimbursed at the actual cost to the CONSULTANT. These charges may include, but are not limited to the following items: travel, printing, long distance telephone, supplies, computer charges, and fees of subconsultants. Air or train travel will only be reimbursed to economy class levels unless otherwise approved by the CITY. Automobile mileage for travel will be reimbursed at the current rate approved for CITY employees and shall be supported by the date and time of each trip with origin and designation of such trips. Subsistence and lodging expenses will be reimbursed at the same rate as for CITY employees. The billing for nonsalary cost, directly identifiable with the PROJECT, shall be an itemized listing of the charges supported by the original bills, invoices, expense accounts, and miscellaneous supporting data retained by the CONSULTANT. Copies of the original supporting documents shall be supplied to the CITY upon request. All above charges must be necessary for the services provided under this AGREEMENT.

3. Contingencies

If the CITY desires the CONSULTANT to perform additional work beyond that already defined in the AGREEMENT, the Agreement Administrator may authorize additional funds for this purpose. Such authorization(s) shall be in writing and shall not exceed the amount shown in Exhibit "C". Any changes requiring additional costs in excess of the contingencies shall be made in accordance with Section XIV, "Extra Work".

4. Maximum Amount Payable

The maximum amount payable for completion of work under this AGREEMENT shall not exceed the amount shown in the heading of this AGREEMENT. The maximum amount payable includes the Contingencies, but does not include payment for extra work as stipulated in Section XIV, "Extra Work". No minimum amount payable is guaranteed under this AGREEMENT.

5. Monthly Progress Payments

Progress payments may be claimed on a monthly basis for all costs authorized in 1 and 2 above. The monthly invoices shall be supported by detailed statements for hours expended at the rates established in Exhibit "C", including names and classifications of all employees, and invoices for all direct nonsalary expenses. To provide a means of verifying the invoiced salary costs for the consultant's employees, the agency may conduct employee interviews. These interviews may consist of recording the names, titles, salary rates, and present duties of those employees performing work on the project at the time of the interview.

6. Inspection of Cost Records

The CONSULTANT and its subconsultants shall keep available for inspection by representatives of the CITY, for a period of three years after final payment, the cost records and accounts pertaining to this AGREEMENT and all items related to or bearing upon these records with the following exception: if any litigation, claim, or audit is started before the three-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved. The three-year retention period begins when the CONSULTANT receives final payment.

7. Final Payment

Final payment of any balance due the CONSULTANT of the gross amount earned will be made promptly upon its verification by the CITY after the completion of the work under this AGREEMENT, contingent upon receipt of all PS&E, plans, maps, notes, reports, and other related documents which are required to be furnished under this AGREEMENT. Acceptance of such final payment by the CONSULTANT shall constitute a release of all claims for payment which the CONSULTANT may have against the CITY unless such claims are specifically reserved in writing and transmitted to the CITY by the CONSULTANT prior to its acceptance. Said final payment shall not, however, be a bar to any claims that the CITY may have against the CONSULTANT or to any remedies the CITY may pursue with respect to such claims.

The payment of any billing will not constitute agreements as to the appropriateness of any item and at the time of final audit, all required adjustments will be made and reflected in a final payment. In the event that such final audit reveals an overpayment to the CONSULTANT, the CONSULTANT will refund such overpayment to the CITY within ninety (90) days of notice of the overpayment. Such refund shall not constitute a waiver by the CONSULTANT or any claims relating to the validity of a finding by the CITY of overpayment.

EXHIBIT C
CONSULTANT FEE DETERMINATION

PROJECT: Bear Creek Rehabilitation Design and PS&E

NEGOTIATED HOURLY RATES:

<u>Classification</u>	<u>Hours</u>	<u>X</u>	<u>Rate =</u>	<u>Cost</u>
Sr. Project Manager	154	X	\$173.12	\$26,660
Project Manager	827	X	\$111.74	\$92,412
Water Resources Engineer	452	X	\$121.97	\$55,132
Professional Engineer	279	X	\$110.17	\$30,737
Survey Technician	12	X	\$69.25	\$831
Sr. CADD Technician	801	X	\$73.97	\$59,251
Landscape Designer	144	X	\$68.46	\$9,859
Sr. Scientist	169	X	\$105.45	\$17,821
Scientist	300	X	\$62.95	\$18,886
Administrative Assistant	80	X	\$73.18	\$5,855
Project Administrator	90	X	\$72.40	\$6,516
GIS Technician	16	X	\$98.84	\$1,581
TOTAL =				<u>\$325,541</u>

REIMBURSABLES:

Reproduction		\$500.00
Mail/Deliveries/Fed Ex	4 per month for 9 months	\$200.00
Mileage	1389 miles @ \$0.375 per mile	\$521.00
=		<u>\$326,762</u>

SUBCONSULTANT COSTS (See Exhibit D): **=** **\$82,410**

TOTAL **=** **\$409,172**

CONTINGENCIES (25%): **=** **\$102,293**

GRAND TOTAL: **=** **\$511,465**

EXHIBIT D

SUBCONTRACTED WORK

The CITY permits subcontracts for the following portions of the work of the AGREEMENT:

<u>SUBCONTRACTOR</u>	<u>WORK DESCRIPTION</u>	<u>AMOUNT</u>
R. W. Beck	Project Administration	\$44,610
Zipper Zeman Associates, Inc.	Geotechnical Evaluation	\$37,800

TOTAL = \$82,410